

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**In re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation**

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88

This document pertains to:

***City of New York v. Amerada Hess Corp. et al.,*
Case No. NY-04-CV-03417**

**DECLARATION OF JENNIFER KALNINS TEMPLE IN SUPPORT OF DEFENDANTS'
JOINT MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND ARGUMENT
REGARDING DAMAGE CAUSED BY TBA**

JENNIFER KALNINS TEMPLE, an attorney duly licensed to practice law in the State of New York and in the United States District Court for the Southern District of New York, hereby declares the following under penalties of perjury:

1. I am a member of the law firm McDermott Will & Emery LLP, counsel for defendant Exxon Mobil Corporation in the above-captioned case. I respectfully submit this Declaration in further support of *Defendants' Joint Motion in Limine to Exclude Evidence and Argument Regarding Damage Caused by TBA* (hereinafter "Defendants' Joint Motion") that is being filed concurrently herewith in the above-captioned case. This Declaration authenticates the exhibits attached and referenced in Defendants' Joint Motion. In accordance with this Court's Individual Rules and Procedures, only the relevant pages of each exhibit are attached.

2. Attached at Exhibit A are true and correct copies of the relevant page(s) from the Expert Report Donald K. Cohen & Marnie A. Bell (Feb. 7, 2009). The attached copies were made on or about May 11, 2009.

3. Attached at Exhibit B are true and correct copies of the relevant page(s) from the deposition of Marnie Bell (Apr. 20, 2009). The attached copies were made on or about May 11, 2009.

Dated: May 11, 2009



JENNIFER KALNINS TEMPLE

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In Re: Methyl Tertiary Butyl Ether ("MtBE")
Products Liability Litigation

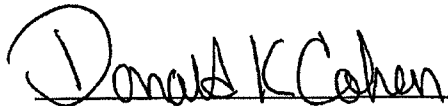
MDL No. 1358
Master File C.A. No.
1:00-1898 (SAS)

This document relates to the following cases:

City of New York v. Amerada Hess Corp., et al.

04 Civ. 3417

EXPERT REPORT OF Donald K. Cohen, CPG
Marnie A. Bell, P.E.
Malcolm Pirnie, Inc.
2701 Queens Plaza North, Suite 800
Long Island City, NY 11101

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February 7, 2009

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February 7, 2009

Signature

Date

(Malcolm Pirnie, 2004a) , and the *VOC Removal Alternatives Analysis Technical Memorandum*, November 2007 (Malcolm Pirnie, 2007e). These flow rates are summarized in **Table 9-1**.

Table 9-1.
Station 6 Design Flow Rates

Condition	Flow Rate (mgd)
Maximum	10
Average	7.5
Minimum ¹	6

¹ The production rate could drop to 6 mgd for only short periods of time (i.e., less than one week)

9.3.3.2. Raw Water Design Criteria

This section discusses influent MTBE concentrations that are used for sizing of the MTBE removal technology. Other relevant raw water design criteria (e.g., pH, other VOCs) have been addressed in the *VOC Removal Alternatives Analysis Technical Memorandum*, November 2007 (Malcolm Pirnie, 2007e). In addition to MTBE, it is important to note that PCE is also present at concentrations requiring treatment (Malcolm Pirnie, 2004a; Malcolm Pirnie, 2007e). However, MTBE is the driver for the design of a treatment system and controls the sizing and in turn the costs. Tertiary-butyl alcohol (TBA), a degradation product of MTBE that is much more difficult to remove (as compared to MTBE), has only been detected in one sample at Station 6 at very low levels (Malcolm Pirnie, 2003); therefore, the removal of TBA has not been included in this design. If TBA were to be detected at significant concentrations in any of the Station 6 wells, it would pose a much bigger challenge to remove the contaminant and would greatly increase the costs of the selected VOC removal technology (Acero, 2001; Chang 2000; Li, 2008).

MTBE Raw Water Modeling Results

For the current analysis, the projected MTBE concentration trends at Station 6 were estimated by LBG using a groundwater flow and solute transport model (as discussed in **Section 8**). The analysis was based on available groundwater quality data, gasoline spill data, and anticipated future pumping scenarios. Contaminant transport modeling was performed for the two conditions as described in the LBG report (**Appendix C**).

Projected results from Analysis 1 for Wells 6, 6A, 6B, 6C, 6D, and 33 are shown in **Figure 9-1**.

EXHIBIT B

Marnie A. Bell, P.E.

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1 or why didn't you conduct that analysis?

2 A. We've seen, I believe, two
3 detections of TBA throughout all the
4 sampling that we've done at the
5 groundwater systems and groundwater
6 wells.

7 And it's obviously something
8 we've discussed a lot, about whether TBA
9 treatment would or would not be required.

10 I believe it was -- based on
11 the fact that it was only detected in one
12 sample at one of the station 6 wells, we
13 did not plan for TBA treatment at station
14 6.

15 However, it's something we
16 continue to look at as new data becomes
17 available and continue to be concerned
18 about for the wells.

19 Q. Are there current plans to
20 test the wells for TBA?

21 A. I'm not aware of current
22 plans to test the wells for TBA; however,
23 I believe DEC was going to continue to
24 look for that, as they had potential